



Duplication of Benefits Policies and Procedures Manual

Emergency Solutions Grant – Cares Act (ESG-CV)
State of California – Housing and Community
Development

VERSION HISTORY

Date	Description of Changes
10/12/2021	Original Version
5/9/2022	Revisions to mitigate barriers for program participants

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I. INTRODUCTION

The State of California was awarded \$315,721,589 in Emergency Solutions Grant – Cares Act (ESG-CV) from the U.S. Department of Housing and Urban Development (HUD) from funds appropriated through the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136 / CARES Act) that was signed into law on March 27, 2020. The bill made ESG-CV funds available to HUD which then allocated the funds to ESG-eligible states and cities. The program is administered by the Department of Housing and Community Development (HCD).

The ESG-CV program requires that recipients ensure that a Duplication of Benefits (DOB) does not occur in the use of ESG-CV funds. Preventing DOB generally means that recipients, subrecipients, and service providers may not use ESG-CV funds for eligible costs funded by other sources and used for the same purpose. In other words, if a program participant receiving ESG-CV funds (e.g. a household receiving rapid re-housing assistance) already received assistance from another source, the household cannot also receive ESG-CV funds for the same purpose, thus resulting in a DOB.

This document establishes the policies and procedures to prevent DOB within the State of California's ESG-CV program and is applicable to all of the State's ESG-CV funded activities as well as the State's annual ESG funded activities used to prevent, prepare for, and respond to the Coronavirus pandemic. In doing so, the State aims to also prevent fraud, waste, and abuse of the State's ESG-CV award.

This policy may be updated periodically to incorporate applicable changes in the ESG-CV program as required by HUD and/or determined necessary by the State.

II. APPLICABLE REQUIREMENTS

ESG PROGRAM HEARTH ACT

ESG-CV funded activities must follow all requirements of The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 ("HEARTH Act"), amending the McKinney-Vento Homeless Assistance Act, for the Emergency Solutions Grants program (42 U.S.C. 11371-11378) except as modified by alternative requirements and flexibilities established under the CARES Act, HUD CPD Notice CPD-21-08, or subsequent waivers.

CARES ACT

Coronavirus Aid, Relief, and Economic Security Act Public Law 116-136 ("CARES Act"), appropriated funds to HUD to be used to prevent, prepare for, and respond to the Coronavirus pandemic among individuals and families who are homeless, at-risk of homeless, or receiving homeless/ homeless prevention assistance. In addition, HUD applied requirements to ESG-CV via the HUD CPD Notice 21-08, *Waivers and Alternative Requirements for the Emergency Solutions Grants (ESG)*, issued on July 19, 2021, as amended by CPD Notice 22-06, *Waivers and Alternative Requirements for the ESG Program Under the CARES Act (ESG-CV); Amendments and Clarifications*. In accordance with the CPD Notice 21-08, grantees must establish adequate procedures to prevent any duplication of benefits as defined by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5155) ("Stafford Act").

STAFFORD ACT

DOB is regulated by the Stafford Act, as amended. The Stafford Act prohibits beneficiaries of federal disaster grants from receiving financial assistance under any other program, or from insurance or any other source, for the same disaster loss.

FEDERAL REGISTER NOTICE 84 FR 28836

Federal Register Notice 84 FR 28836 (“2019 HUD DOB Updates Notice”) requires recipients to establish and adhere to adequate procedures to prevent any duplication of benefits as required by the Stafford Act, as amended, and the Disaster Recovery Reform Act of 2018 (DRRA). The Stafford Act states that recipients must analyze assistance to prevent a federal grant from paying costs that have already been paid for, or will be paid for, by another Federal program, insurance, or other sources.

PUBLIC LAW 115-254 (DRRA)

The Disaster Recovery Reform Act of 2018 (DRRA) Public Law No: 115-254 amends certain Stafford Act requirements for disasters occurring between 2016 and 2021 by allowing certain flexibility associated with the calculation of duplication of benefits with respect to subsidized loans. The Coronavirus pandemic is covered by the DRRA.

UNIFORM ADMINISTRATIVE REQUIREMENTS AT 2 CFR 200

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200 requires that costs of federal grants, including ESG-CV funds, must “be **necessary** and **reasonable**”. These requirements (“Cost Principles”) prohibit using a federal grant for costs that have already been or will be paid from another source, and that the costs are considered reasonable if they do not “exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.” Cost Principles are made applicable to states for ESG by 24 CFR 576.407(c).

III. ROLES AND RESPONSIBILITIES

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The California Department of Housing and Community Development (HCD), also referred to as “the State”, is the recipient of ESG-CV funding from HUD. The structure and process of the distribution of ESG-CV funds within the State is summarized in the State’s 2019 Annual Action Plan (as amended).

HCD is responsible for ensuring that DOB does not occur for ESG-CV funds. These responsibilities include ensuring that subrecipients comply with and implement DOB Policies and Procedures in their role of assisting potential program participants to seek, apply for, and receive ESG-CV assistance.

SUBRECIPIENTS

Subrecipients are Continua of Care (CoCs) implementing ESG-CV programs and activities.

PROGRAM PARTICIPANTS

Program participants are those individuals or households/families that benefit from ESG-CV funds.

IV. DOB KEY TERMS

DUPLICATION OF BENEFITS (DOB)

A DOB occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Presidentially declared disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source.

In other words, a DOB occurs when:

- A program participant receives assistance or anticipates receiving assistance; and
- The assistance is from multiple sources (i.e., Treasury funds, nonprofits, City, State, etc.); and
- The assistance amount exceeds the total need for a specific purpose.

ORDER OF ASSISTANCE

“Order of Assistance” analysis for DOB does not apply to ESG-CV funds. Program funds can be awarded to a program participant regardless of other awards or assistance sought by the program participant as long as a need for assistance exists and the ESG-CV award does not, or will not duplicate, any other form of eligible assistance.

TYPES OF ASSISTANCE

There are a variety of funding sources that may be considered a DOB depending on the funding source, purpose, and use. Assistance considered to be a potential DOB includes:

- Other Federal CARES Act funding (e.g., US Treasury, SBA)
- Cash awards
- Insurance proceeds
- Grants
- Awards or assistance under local, state, and private or nonprofit organizations (e.g. Community Action Agency, Low-Income Home Energy Assistance Program, Family Investment Program)
- Other HUD grants (e.g., HOME, CDBG)

Assistance not considered to be a potential DOB includes:

- Personal assets such as money in a checking or savings account (excluding insurance proceeds or other assistance deposited into the program participant’s account)
- Unemployment benefits
- Retirement accounts
- Credit cards and lines of credit

- In-kind donations (although these non-cash contributions known to the grantee reduce total need)
- Assistance provided for a different purpose than the ESG-eligible activity, or a general, non-specific purpose (e.g., “disaster relief/recovery”) and not used for the same purpose
- Funds not available to the program participant, like when insurance funds must be used for a forced mortgage payoff
- Some types of loans: Declined or cancelled subsidized loans (including SBA loans); Private loans; Government-subsidized loans, provided that all Federal assistance is used toward a loss suffered as a result of a major disaster or emergency.

FUNDS FOR A DIFFERENT PURPOSE

Any assistance provided for a different purpose than the ESG-CV eligible activity, or a general, nonspecific purpose (e.g., “Coronavirus relief/recovery”) and not used for the same purpose must be excluded from total assistance when calculating the amount of the DOB.

V. DOB PROCEDURES

RECIPIENT PROCEDURES

As part of the application process, the State requires each applicant to complete a DOB analysis indicating that the proposed activities are not anticipated to result in a duplication of benefit at the activity level. Further, analysis is required at the program participant level when financial assistance is provided to the participant for housing relocation or stabilization services as described in 24 CFR 576.105(a) as amended by CPD Notice 21-08.

The subrecipients are responsible for ensuring that a DOB does not occur when carrying out funded activities. The State is responsible for monitoring and ensuring subrecipient compliance.

If the State is to carry out activities directly, it will adopt and follow the subrecipient policies and procedures.

SUBRECIPIENT POLICIES AND PROCEDURES

All subrecipients are responsible for adopting DOB Policies and Procedures and ensuring compliance for projects at the activity and rental assistance level. Subrecipients are responsible for using the following process to analyze and determine if a DOB exists at the activity or financial assistance level.

For any subrecipient providing rental assistance or other financial assistance, duplication of benefit provisions must be established for the individual or entity receiving the cash payment. For example, if the subrecipient (or its provider) makes a rental assistance payment on behalf of a program participant to a landlord that is later deemed to be duplicative in nature, the subrecipient **must** collect the duplicated payment from the landlord and **cannot** collect the duplicated payment from the program participant without prior written authorization from the State.

Sample Subrecipient DOB Policies and Procedures are included as Appendix II.

DUPLICATION OF BENEFITS ANALYSIS STEPS – ACTIVITY LEVEL

1. Assess Need for the Activity:
 - Determine the total amount of need for the activity (e.g., Emergency Shelter, Temporary Emergency Shelter, Street Outreach, Rapid Re-housing, Homelessness Prevention, HMIS, Administration).
 - Need can be assessed for the entire jurisdiction or for each project
2. Determine Assistance:
 - Determine the amount of funding that has or will be provided from all non-ESG-CV funding sources to pay for the activity cost(s).
3. Calculate Maximum Level of Award:
 - Compare the amount of assistance (Step 2) to the total need (Step 1) to determine the maximum possible ESG-CV award.
4. Document DOB analysis:
 - Document steps 1-3 and ESG-CV award amount to verify that the amount of ESG-CV award is equal to or lower than the maximum level of award.

DUPLICATION OF BENEFITS ANALYSIS STEPS – FINANCIAL/ RENTAL ASSISTANCE LEVEL¹

1. Assess Need:
 - For each ESG-CV funded cost type (e.g., rental application fees, security deposits, last month's rent, utility deposits, utility payments, moving costs, rental assistance) determine the total amount of financial assistance needed.²
2. Determine Assistance:
 - Determine the amount of funding that has or will be provided from all non-ESG-CV funding sources to pay for the cost(s).
3. Calculate Maximum Level of Award:
 - Compare the amount of assistance (Step 2) to the total need (Step 1) to determine the maximum possible ESG-CV award.
 - A sample DOB Calculation Worksheet is included as Appendix II.
4. Document DOB analysis:
 - Document steps 1-3 and ESG-CV award amount to verify that the amount of ESG-CV award is equal to or lower than the maximum level of award.

DUPLICATION OF BENEFITS CERTIFICATION

When providing financial assistance for housing relocation and stabilization services (24 CFR 576.105(a) as amended by CPD Notice 21-08) through homeless prevention or rapid re-housing program components, subrecipients and/ or service providers are encouraged to use a checklist as part of intake to document other assistance being provided. Further, subrecipients should ensure that the landlord or property manager is aware that duplicated assistance must be repaid

¹ Required when the program participant receives financial assistance for housing relocation and stabilization services (24 CFR 576.105(a) as amended by CPD Notice 21-08 or otherwise determined by the State or subrecipient.

² The assessment only needs to be done for the same cost types as the ESG-funded activity.

and document such requirement in the 3rd party lease agreement with the landlord/ property manager.

A sample DOB Checklist is included as Appendix I to assist with intake of program participants for financial assistance for housing relocation and stabilization services.

DETERMINATION OF DOB

If a DOB is determined to exist, the subrecipient is responsible for recapturing the assistance that is determined to be duplicative. The subrecipient is responsible for reporting any determination of DOB to the State.

SERVICE PROVIDER MONITORING

Subrecipients are responsible for monitoring service providers to ensure that all activities are carried out in accordance with the subrecipient's DOB Policies and Procedures.

MONITORING

The State will periodically monitor subrecipients to ensure compliance with duplication of benefits requirements.

REPORTING

Subrecipients are responsible to periodically report on DOB, as required by the State.